



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Glenwood Springs Field Office
50629 Highways 6 and 24
Glenwood Springs, Colorado 81601
www.co.blm.gov



CATEGORICAL EXCLUSION

NUMBER: CO-140-2006-130CE

CASEFILE/PROJECT NUMBER: COC-038534, Amendment 1

PROJECT NAME: Buried fiber optic line

LEGAL DESCRIPTION: T. 5 S., R. 83 W., section 18, lot 12 and T. 5 S., R. 84 W., section 13, lots 16 and 17, and section 24, lots 2 and 3, Sixth Principal Meridian.
(see attached maps)

APPLICANT: CenturyTel of Eagle, Inc., contact - Patricia Kenny

DESCRIPTION OF PROPOSED ACTION: Provide a Federal Land Policy and Management Act right-of-way authorization for a proposed buried fiber optic line along Trail Gulch near Bellyache Ridge, and spurred off of County Road #307. The existing authorized right-of-way (ROW) COC-038534 for the fiber optic line is deteriorating, and a new fiber optic line would provide improved, continued service to towns of Eagle and Edward's customers. There are currently four other utilities within the ROW; non-objections from these holders are on file. The new line would be off-set approximately one foot from the existing line. Construction activities would take place in the fall of 2006, and would last approximately five days. Only portions of the existing line would be upgraded.

This amendment also encompasses all infrastructure and terms and conditions in the original right-of-way.

In conjunction with this proposal, there has been a request for renewal of this ROW for another thirty years.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Glenwood Springs Resource Management Plan.

Date Approved: January, 1984; revised in 1988; amended in November 1991 - Oil and Gas Leasing and Development - Final Supplemental Environmental Impact Statement;

amended Nov. 1996 - Colorado Standards and Guidelines; amended in August 1997 - Castle Peak Travel Management Plan; amended in March 1999 - Oil and Gas Leasing & Development Final Supplemental Environmental Impact Statement; amended in November 1999 - Red Hill Plan Amendment; and amended in September 2002 – Fire Management Plan for Wildland Fire Management and Prescriptive Vegetation Treatment Guidance.

Decision Number/Page: Page 41, Utility and Communication Facility Management.

Decision Language: To respond in a timely manner to requests for utility and communication facility authorizations on public land while considering environmental, social, economic, and interagency concerns.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4, Number: E. Realty #(9), (12) and (13).

(9) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations,

(12) Grants of right-of-way wholly within the boundaries of other compatibly developed right-of-way, and

(13) Amendments to existing rights-of-way such as the upgrading of existing facilities which entail no additional disturbances outside the rights-of-way boundary

None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	_____	<u> X </u>
2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	_____	<u> X </u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	_____	<u> X </u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	<u> X </u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	<u> X </u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	_____	<u> X </u>
7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.	_____	<u> X </u>
8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on	_____	<u> X </u>

- designated Critical Habitat for these species. _____ X
9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment. _____ X
10. Have the potential for a disproportionately high and adverse effect on low income or minority populations. _____ X
11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites. _____ X
12. Significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species. _____ X

INTERDISCIPLINARY REVIEW:

Name	Title	Area of Responsibility
Tom Fresques	Wildlife Biologist	Wildlife, T&E Wildlife, Fish, Migratory Birds
Cheryl Harrison	Archaeologist	Cultural Resources and Native American Religious Concerns
Michael Kinser	Rangeland Mgmt Spec	Wetlands, Riparian, Range Mgmt
Carla Scheck	Ecologist	Invasive/Non-native Species, Vegetation, T&E Plants

REMARKS:

Environmental analysis was completed for the buried fiber optic line right-of-way COC-38534 CenturyTel of Eagle, Inc.: and other utilities;C-3911 Rocky Mountain Natural Gas Company, COC-054361 Rocky Mountain Natural Gas Company, COC-061664 Holy Cross Energy and COC06844 Cordillera Metro District.

The existing right-of-way is infested with a number of noxious weeds, including musk thistle and Russian knapweed. The new surface disturbance associated with this proposed action would likely cause an expansion of the current infestation. The right-of-way grant includes stipulations requiring the project proponent to control any and all Colorado state-listed noxious weeds that may become established in the right-of-way as a result of construction, maintenance, and operation activities associated with the proposed action.

NAME OF PREPARER: Carole Huey

DATE: September 8, 2006

DECISION AND RATIONALE: I have reviewed this CER and have decided to implement the proposed action.

This action is listed in the Department Manual as an action that may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

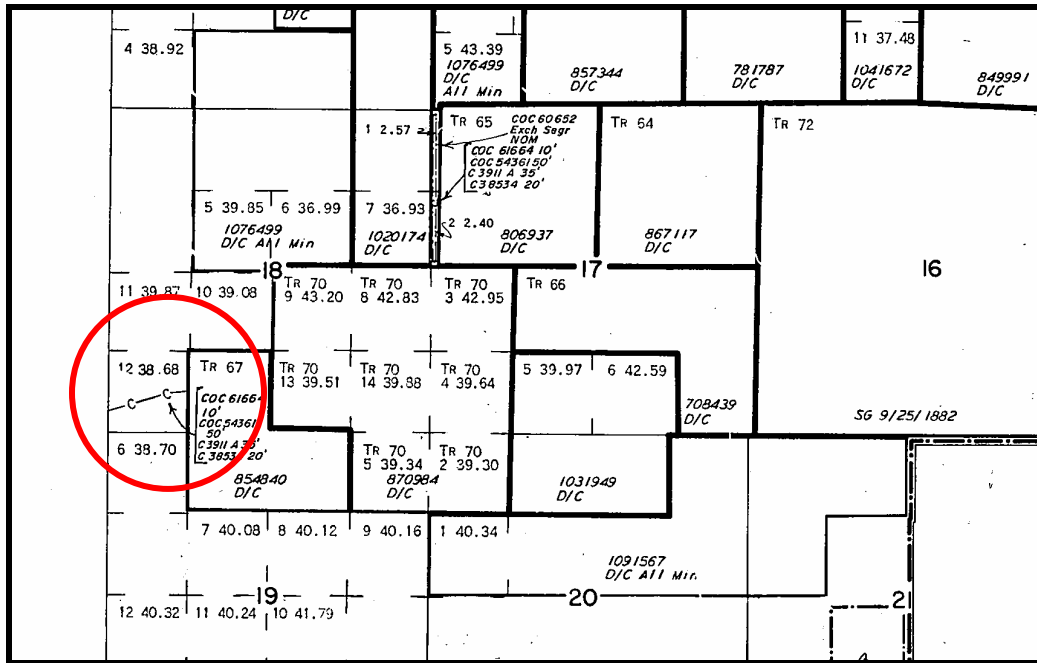
SIGNATURE OF AUTHORIZED OFFICIAL:


for Associate Field Manager

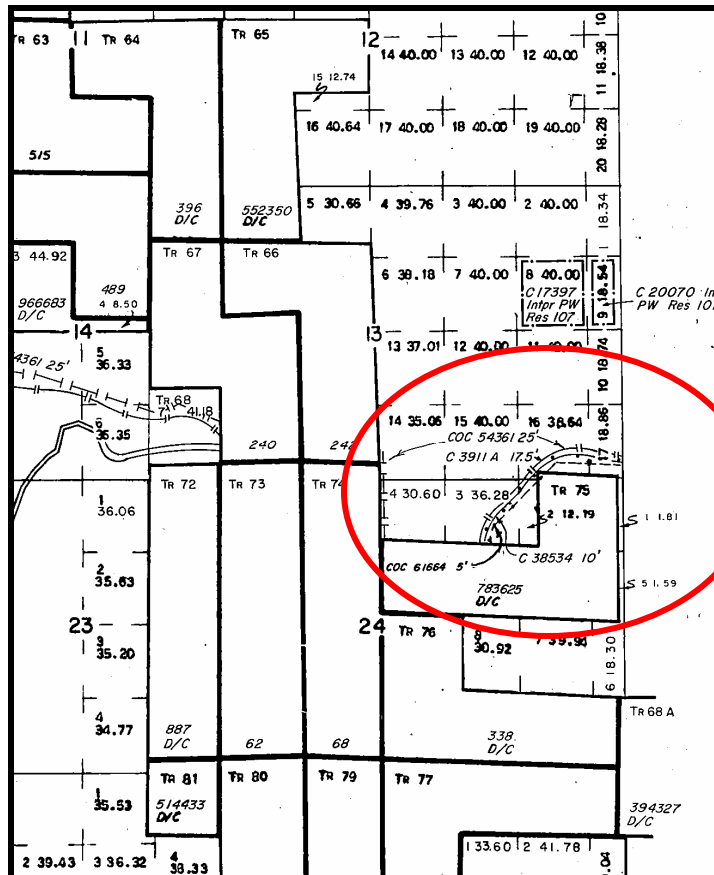
DATE SIGNED:

9/11/2006

T5S R83W sec. 18 lot 12



T5S R84W sec. 13 lots 16 & 17 and sec. 24 lots 2 & 3



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT / TEMPORARY USE PERMIT

1. A right-of-way is hereby granted pursuant to Title V of the Federal land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:

- a. By this instrument, the holder:

**CenturyTel of Eagle, Inc.
PO Box 570
Eagle, Colorado 81631**

receives a right to construct, operate, maintain, and terminate an access road as shown on public lands (or federal land for MLA Rights-of-Way) described as follows:

**6th Principal Meridian
T. 5 S., R. 83 W.,
section 2, lot 8
section 11, lot 2
section 17, lot 2
section 18, lot 12**

**T. 5 S., R. 84 W.,
section 13, lots 16 and 17, and
section 24, lots 2 and 3.**

- b. The right-of-way area granted here is **20 feet wide, 5,504 feet long** and contains **2.53 acres, more or less.**
 - c. This instrument shall terminate on December 31, 2035, approximately 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.
3. Rental: For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.
4. Terms and Conditions:
- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and 2880.
 - b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within **90 days**, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
 - c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
 - d. The stipulations, plans, maps, or designs set forth in Exhibit **A**, dated **September 8, 2006** attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
 - e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
 - f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.

Signature of Holder

Signature of Authorized Officer

Title

Associate Field Manager

(Date)

(Effective date of Grant)

STIPULATIONS / COC038534 / CENTURYTEL OF EAGLE, INC.

AMENDMENT 1 / EXHIBIT A

As defined by 43 CFR § 1810, the Authorized Officer is the Glenwood Springs Field Office Manager (970)947-2800, or his/her designated representative.

All Terms and Conditions, and Exhibit B within the original Right-of-Way approved on March 5, 1985 are valid.

The holder shall submit a plan or plans of development that describe in detail the construction, operation, maintenance, and termination of the right-of-way and its associated improvements and/or facilities. The degree and scope of these plans will vary depending upon (1) the complexity of the right-of-way or its associated improvements and/or facilities, (2) the anticipated conflicts that require mitigation, and (3) additional technical information required by the authorized officer. The plans will be reviewed, and if appropriate, modified and approved by the authorized officer. An approved plan of development shall be made a part of the right-of-way grant. (a) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and state laws and regulations applicable to the authorized use.

The holder shall designate a representative(s) who shall have the authority to act upon and to implement instructions from the authorized officer. The holder's representative shall be available for communication with the authorized officer within a reasonable time when construction or other surface disturbing activities are underway.

The authorized officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.

The holder shall comply with the construction practices and mitigating measures established by 33 CFR 323.4, which sets forth the parameters of the "nationwide permit" required by Section 404 of the Clean Water Act. If the proposed action exceeds the parameters of the nationwide permit, the holder shall obtain an individual permit from the appropriate office of the Army Corps of Engineers and provide the authorized officer with a copy of same. Failure to comply with this requirement shall be cause for suspension or termination of this right-of-way grant.

Holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.

The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way. The holder shall revegetate all disturbed areas with the seed mixture(s) listed below.

A specified seed mix designed to meet interim reclamation standards while providing forage and browse for wintering elk and deer using a mixture of native shrubs and grasses and native or desirable non-native forbs shall be applied. The following seed mix and rates will be used on all disturbed surfaces:

<u>Species of Seed</u>	<u>Variety</u>	<u>Application Rate (PLS lbs/acre)</u>
Western wheatgrass	Arriba	4.5
Bluebunch wheatgrass	P-7	4.0
Indian ricegrass	Paloma	2.0
Bottlebrush squirreltail		<u>2.0</u>
TOTAL		12.5 PLS lbs/ac*

* In areas that cannot be drilled, broadcast seed at twice the application rate and cover $\frac{1}{4}$ to $\frac{1}{2}$ deep with a harrow or drag bar.

The above rate of application is listed in pounds of pure live seed (PLS)/acre. The seed will be certified free of noxious weeds. All seed to be applied to public land must have a valid seed test, within one year of the acceptance date, from a seed analysis lab by a registered seed analyst (Association of Official Seed Analysts). The seed lab shall show no more than 0.5 percent by weight of “other weed” seeds; and the seed lot shall contain no “noxious, prohibited, or restricted weed” seeds according to the All States Noxious Test. Seed may contain up to 2.0 percent of “other crop” seed by weight which includes the seed of other agronomic crops and native plants; however, a lower percent of other crop seed is recommended. Seed tags or other official documentation shall be supplied to the Glenwood Springs BLM Ecologist at least 14 days prior to the date of proposed seeding for acceptance. Seed which does not meet the above criteria shall not be applied to public lands.

Upon completion of backfilling, leveling, ripping to minimum 18 inch depth on 2 foot centers, and recontouring, the stockpiled topsoil will be evenly spread over the reclaimed areas(s). Prior to reseeding, all disturbed surfaces will be scarified and left with a rough surface. No depressions will be left that would trap water and form ponds.

The prepared seedbed will be seeded within 24 hours after completing dirt work unless a change is requested by the operator and approved by the Authorized Officer. Prepare the seedbed by contour cultivating 4-6 inches deep. **Drill seed $\frac{1}{4}$ to $\frac{1}{2}$ inch deep** following the contour. In areas that cannot be drilled, **broadcast seed at twice the application rate** and cover $\frac{1}{4}$ to $\frac{1}{2}$ inch deep with a harrow or drag bar. Fall seeding will be conducted after September 1 and prior to ground frost. Spring seeding will be done after the frost leaves the ground and no later than May 15th. If the seeding is unsuccessful, operator will be required to make subsequent seedings or perform other reclamation practices until the reclamation objectives identified in Appendix I. Surface Reclamation of the 6/98 GSFO’s Draft Supplemental EIS for Oil & Gas Leasing Development are met.

The holder shall monitor the ROW for the presence of noxious weeds at least once annually during the growing season (or as frequently as the Authorized Officer determines) for the life of the permit. After consulting with the authorized officer, the holder shall promptly treat and

control any Colorado State-listed noxious weeds which have resulted from the holder's construction, operation, maintenance or use of the ROW. If chemical control is necessary, use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan (Pesticide Use Proposal) showing the type and quantity of material to be used, the weed (s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of herbicides shall be approved in writing by the authorized officer prior to such use. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of Interior issued pursuant thereto.

During conditions of extreme fire danger, operations shall be limited or suspended in specific areas, or additional measures may be required by the authorized officer.

Except rights-of-way expressly authorizing a road after construction of the facility is completed, the holder shall not use the right-of-way as a road for purposes other than routine maintenance as determined necessary by the authorized officer in consultation with the holder

Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

The holder of Right-of-Way No. **COC038534** agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.

Education/Discovery Stipulation:

All persons in the area who are associated with this project must be informed that if anyone is found disturbing historic, archaeological, or scientific resources, including collecting artifacts, the person or persons will be subject to prosecution.

Pursuant to 43CFR10.4(g), the BLM authorized officer must be notified, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43CFR10.4 (c) and (d), activities must stop in the vicinity of the discovery and the discovery must be protected for 30 days or until notified to proceed by the authorized officer.

If in connection with operations under this contract the project proponent, his contractors, subcontractors, or the employees of any of them, discovers, encounters or becomes aware of any

objects or sites of cultural or paleontological value or scientific interest such as historic or prehistoric ruins, graves or grave markers, fossils, or artifacts, the proponent shall immediately suspend all operations in the vicinity of the cultural or paleontological resource and shall notify the BLM authorized officer of the findings (16 U.S.C. 470h-3, 36CFR800.112). Operations may resume at the discovery site upon receipt of written instructions and authorization by the authorized officer. Approval to proceed will be based upon evaluation of the resource. Evaluation shall be by a qualified professional selected by the authorized officer from a federal agency insofar as practicable. When not practicable, the holder shall bear the cost of the services of a non-federal professional.

Within five working days the authorized officer will inform the holder as to:

- whether the materials appear eligible for the National Register of Historic Places;
- the mitigation measures the holder will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
- a time frame for the authorized officer to complete an expedited review under 36CFR800.11, or any agreements in lieu thereof, to confirm through the State Historic Preservation Officer that the findings of the authorized officer are correct and the mitigation is appropriate.

The proponent may relocate activities to avoid the expense of mitigation and/or the delays associated with this process, as long as the new area has been appropriately cleared of resources and the exposed materials are recorded and stabilized. Otherwise, the proponent will be responsible for mitigation costs. The authorized officer will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the authorized officer that the required mitigation has been completed, the proponent will then be allowed to resume construction.

Antiquities, historic ruins, prehistoric ruins, paleontological or objects of scientific interest that are outside of the authorization boundaries but directly associated with the impacted resource will also be included in this evaluation and/or mitigation.

Antiquities, historic ruins, prehistoric ruins, paleontological or objects of scientific interest, identified or unidentified, that are outside of the authorization and not associated with the resource within the authorization will also be protected. Impacts that occur to such resources, that are related to the authorizations activities, will be mitigated at the proponent's cost including the cost of consultation with Native American groups.